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<p>Department of Forensic Science</p> <p>QUALITY MANUAL</p>	<p>Amendment Designator: G</p>
	<p>Effective Date: 1-February-2006</p>
<p style="text-align: center;">13 CASE FILES AND FILE ADMINISTRATION</p> <p>13.1 Policy</p> <p>A file will be created for all submissions of physical evidence related to one criminal event that has been uniquely identified by a submitting agency when received into the Department. The file will be assigned a unique FS Lab #.</p> <p>13.2 Assignment of Forensic Science Laboratory Numbers</p> <p>13.2.1 A FACE generated FS Lab # will be assigned upon receipt of the first RFLE. The laboratory assigning the number is designated the originating laboratory.</p> <p>13.2.2 Only one FS Lab # will be assigned to the same criminal event in a single jurisdiction regardless of the number of submitting agencies, suspects or victims.</p> <p>13.2.3 Submissions involving criminal events committed by a suspect in more than one jurisdiction will be assigned a unique FS Lab # for each criminal event.</p> <p>13.2.4 Any supplemental submission(s) will be assigned the same FS Lab # as the original submission.</p> <p>13.2.5 An assigned FS Lab # cannot be changed except by (mutual) consent of the Director(s) of the laboratory(ies) involved.</p> <p>13.2.6 FS Lab #s will be formatted as follows:</p> <p style="margin-left: 40px;">LYY-#, where</p> <p style="margin-left: 40px;">L is the laboratory designator, C = Central N = Northern T = Eastern W = Western</p> <p style="margin-left: 40px;">YY are the last two digits of the calendar year</p> <p style="margin-left: 40px;"># is the number assigned by FACE, consecutively beginning with the first case submitted in the calendar year. (There will be no leading zeros.)</p> <p style="margin-left: 40px;">Example: C01-12345</p> <p>13.2.7 When FACE is down, temporary log numbers will be used.</p> <p>13.2.7.1 A log book of all Temporary D numbers will be kept by the Evidence Receiving Section. The next system-down occurrence will use the next sequential D number.</p> <p>13.2.7.2 Until the system is back on line, the evidence will be marked with the Temporary D number and held by Evidence Receiving.</p> <p>13.2.7.3 A copy of the RFLE bearing the Temporary D number is to be given to the submitting officer with an explanation that a copy of the RFLE with the FS Lab # will be mailed to him/her once the system is back on-line.</p> <p>13.2.7.4 When the system comes back on-line, cases assigned a Temporary D number will be received into the system and assigned an FS Lab #. Barcode labels will be generated and placed beside the Temporary D number on the RFLE and the evidence.</p>	

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<p>13.2.7.5 The FS Lab # will be recorded beside its corresponding Temporary D number in the log book.</p> <p>13.2.7.6 A copy of the RFLE showing both numbers will be mailed to the submitting officer.</p> <p>13.2.7.7 Format for Temporary D Numbers when FACTS is down</p> <p>DLYY-#, where</p> <p>D is the designator for system down</p> <p>L is the laboratory designator, C, N, T or W</p> <p>YY are the last two digits of the calendar year</p> <p># is the temporary number assigned consecutively beginning with the first temporary number assigned in the calendar year. (There will be no leading zeros.)</p> <p>Example: DC01-110</p>	
13.3 Assignment of Item Numbers	
<p>13.3.1 The Department prefers consecutive numerical designations and recommends the same to its clients. Examiners will maintain the same item number designation used by the submitter whenever possible. If the examiner's item number must be different from the submitter's item number, the examiner will reference the client's designation when listing evidence on the CoA or reflect the examiner's item number on the original RFLE and the copy of the RFLE returned to the submitter.</p>	
13.3.2 No duplicate item numbers may exist within a file.	
13.3.3 A sub-item will be created only when a part, portion and/or component of an item is transferred or when it must be uniquely described for clarity.	
13.3.3.1 Sub-item numbers will be generated by using an alternating alphanumeric sequence not separated by any space, hyphen, comma, or any other symbol. The original item number will determine the sequence used.	
13.3.3.2 In reporting or referencing a sub-item, simply refer to it as an "item".	
13.3.3.3 Formatting Schemes	
<u>Client's Designation</u> Item 1 Item 23 Item AB Item 2B Item AB31 Item 1-A-2	<u>Sub-item Designation</u> Item 1A Item 23A Item AB1 Item 2B1 Item AB31A Item 1-A-2A
<p>13.3.3.4 Examples of sub-item numbering:</p> <ul style="list-style-type: none"> The submitter submits a shirt identified as Item 8. The fibers removed from the shirt and transferred to another examiner become Item 8A. The blood removed from the shirt and transferred to another laboratory becomes Item 8B. 	

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- The RFLE lists a bag of clothing as Item 1A. The contents of the bag are a shirt (Item 1A1), a pair of pants (Item 1A2), and a pair of underwear (Item 1A3). The paint removed from the pants is sent to another examiner and designated Item 1A2A.

13.4 Evidence Item Descriptions

13.4.1 Items of evidence will be described in FACE and on the CoA as stated on the client's RFLE. Alterations may be made if the description is too long, incorrect, or needs clarification.

13.4.2 Examples of client's descriptions needing clarification:

<u>RFLE description</u>	<u>Clarified Department description</u>
Item 1 Latent lift	Item 1 Latent lift from mirror
Item 2 Latent lift	Item 2 Latent lift from door
Item 3 Latent lift	Item 3 Latent lift from window
Item 4 Bag of cocaine	Item 4 Bag of white powder
Item A Bag of clothing	Item A Bag of clothing (No clarification required)

13.4.3 The item description shall be identical on all reports issued in the file when multiple examiners analyze the same items.

13.5 Interrelated Submissions

Occasionally an investigator will request that evidence from his/her case be compared to evidence submitted in another case. Sometimes, the request may involve a different jurisdiction. To establish uniformity in these inter-comparisons, one of the following options will be used.

13.5.1 Option 1. The item submitted in one case which has been compared to a second case will be referenced in the "Results" section of the CoA by stating "previously identified as Item ____ in FS Lab # ____". This item will not appear in the listing of evidence received.

Example—

Results:
The known writings of Jane Doe (previously identified as Item 1 in FS Lab # T93-2754) were compared to...

13.5.2 Option 2. The item submitted in one case which has been compared to evidence in a second case may appear in the "Evidence Submitted By" section of the CoA. The original item number will be used in listing the evidence. Reference to the original item number and the FS Lab # will be made in parentheses following the listing of the evidence as formatted in the following example. If the submitting officer's agency for the "inter-compared" item differs from the agency to which the report is addressed, the submitting officer's agency will be specified on the line below his name.

Example—

[Request from Officer Bobby Green of Chesterfield County Police Department to compare the Item 2 blood sample of R. Smith from FS Lab # XXX to his case. Officer Green submitted two items in his case (designated Items 1 and 2.)

Evidence Submitted By: Officer Bobby Green

Received: " __/__/__ "

Item 1. Piece of broken glass

Item 2. One (1) latex glove

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<div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 60%;"> <p>Evidence Submitted By: Officer John Doe Fairfax County Police Department</p> <p>Item 2. Blood sample from R. Smith (previously submitted as Item 2 in FS Lab # XXX).</p> <p>13.5.3 All “inter-compared” evidence will be labeled and tracked using only the FS Lab # and the Item # originally assigned.</p> </div> <div style="width: 35%; text-align: right;"> <p>Received: “__/__/__”</p> </div> </div> <p>13.6 Case Files</p> <p>Contents of case files can be classified as administrative documentation or examination documentation. The total documentation constitutes the case file. A file will be composed of at least one RFLE. All documentation related to this and subsequent submissions will be stored in the case file. The case file will be uniquely identified by the FS Lab # assigned to the first RFLE.</p> <p>13.6.1 DUI/DUID files need not contain an RFLE if none was included with the submission.</p> <p>13.7 Administrative Documentation</p> <p>Administrative documentation includes copies of RFLEs, internal chain of custody documents, notes and Memoranda of Record of case-related conversations, subpoenas (testimony subpoenas optional), records of discovery, and other pertinent information which are related to the case file but do not necessarily support the conclusions drawn. Each page of administrative documentation must be labeled with at least the FS Lab #.</p> <p>Some chain of custody documentation may be recorded on examination documentation worksheets and will be labeled in accordance with ¶ 13.8.1.</p> <p>13.8 Examination Documentation</p> <p>Examination documentation includes tests conducted, standards and controls used, diagrams, printouts, photographs, spectra, chromatograms, hand written notes and other material used by the examiner to reach a conclusion. Examination documentation must contain sufficient detail to allow another examiner, in the absence of the initial examiner, to evaluate the data and interpret the data that was the basis for the conclusion.</p> <p>13.8.1 Each page of examination documentation will be labeled with the FS Lab # and the examiner’s initials. Dates should be recorded throughout the documentation to indicate when the work was performed. The FS Lab # and date may be machine generated, but the initials must be handwritten.</p> <p>13.8.2 All examination documentation will be restricted to one side of a sheet of paper only.</p> <p>13.8.3 All handwritten notes will be in ink. Pencil or colored pencil may be used for diagrams or tracings. Nothing in examination documentation, including completed diagrams or tracings, may be erased or obliterated. Changes, alterations and additional notations, including interlineations, made in examination documentation must be initialed by the person making the addition.</p> <p>13.8.4 All material smaller than 8 ½” x 11” must be securely affixed to an 8 ½” x 11” sheet of paper or placed in an envelope marked with the FS Lab # and examiner’s initials. The envelope must be no smaller than 7” x 10” and no larger than 9” x 12”.</p> <p>13.8.5 Nonstandard procedures must be described in sufficient detail to allow another forensic scientist to review and, if necessary, to repeat the procedure. Appropriate literature references should be included when available.</p> <p>13.8.6 Significant interactions with others, such as, but not limited to, second sizing of DNA typing results and verification of latent print identifications, are considered a part of the examination record and must be documented.</p>	

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<p>13.8.7 Notes shall be made contemporaneously with the examinations they document. Notes will include descriptions of containers, items, other packaging, and condition of seals.</p> <p>13.8.8 If modification of a previously reported conclusion is necessary due to subsequent testing, reconsideration of test results or new information, the basis for an amended conclusion shall be noted in new examination documentation. The original notes will not be altered.</p> <p>13.8.9 Photographs and Negatives</p> <p>13.8.9.1 Photographs and negatives must be marked such that it is possible to unambiguously associate each photograph with a file and an item. Photographs can be marked either on the front or the back as long as the labeling and the examiner's initials are available to the reviewer. The examiner shall initial by hand each photograph and negative.</p> <p>13.8.9.2 A photograph containing images of multiple cases and/or items, such as the photograph of a product gel in DNA, shall be attached to an 8 ½" x 11" sheet of paper which clearly identifies the cases and/or items.</p> <p>13.8.10 Digital Images</p> <p>13.8.10.1 Images acquired on equipment utilizing digital storage media, e.g., CD-R, CD-RW, DVD, that become part of the file documentation will be stored according to the following procedures.</p> <p>13.8.10.1.1 All images will be captured with the FS Lab #, item number, and examiner's initials clearly visible whenever possible.</p> <p>13.8.10.1.2 Directories will be created by the examiner/forensic photographer, and the original image will be saved and placed into the appropriate directory.</p> <p>13.8.10.1.3 The storage to digital media shall occur a minimum of once per quarter based on a calendar year. (If the system is assigned a "key operator", this individual will perform the storage function.)</p> <p>13.8.10.1.4 The digital media will be identified by laboratory, Section(s), quarter and year.</p> <p>13.8.10.1.5 The digital media will be forwarded to the laboratory's file storage area. A duplicate may be produced and retained in the Section for reference.</p> <p>13.8.11 It is recognized that for some analyses that are run in batch mode, e.g., alcohol analyses or FPIA runs, keeping records in a single file of the batch may be more appropriate. Section Technical Procedures Manuals will specify the procedures to be used, if this is an option, to assure that the information is referenced in the examination documentation.</p> <p>13.8.12 All measurements reported in, or supporting, examination documentation must be recorded in such a manner that results are traceable to known standards.</p> <p>13.9 Storage and Disposition of Case Files</p> <p>13.9.1 Case files will be retained and disposed of according to The Library of Virginia Specific Schedule Number 140-01, series number 100267, Case Files.</p> <p>13.9.2 In brief, files will be retained locally approximately five years, then transferred to the State Records Center. Total file retention is established to be 30 years.</p>	

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<p>13.9.3 The Department's Forensic Business Manager is responsible for the storage of case files in, and retrieval from, The Library of Virginia and will establish the Department's procedures for storage and retrieval.</p> <p>13.9.4 Each laboratory will develop a written policy for local control of case file access, distribution, and return, and the associated documentation.</p> <p>13.10 Controlled Substance Certificates of Analysis</p> <p>13.10.1 The Code of Virginia, § 19.2-187, requires that the Certificate of Analysis "...relating to a controlled substance or marijuana shall be mailed or forwarded to the attorney of the Commonwealth of the jurisdiction where the offense may be heard." Law enforcement agencies may request that a CoA of controlled substances recovered in undercover operations be held by the laboratory and sent to the office of the Commonwealth's Attorney after the undercover operation is completed. Security of undercover personnel is the principal concern.</p> <p>13.10.2 Procedure</p> <p>13.10.2.1 The original CoA will be mailed to the Commonwealth's Attorney of the jurisdiction where the offense may be heard.</p> <p>13.10.2.2 An acknowledgment-of-receipt card (see Appendix C-2 for example) will be included with the CoA(s). A log will be maintained to track the status of the acknowledgment cards. The card will be filed upon return.</p> <p>13.10.3 Procedural Variation</p> <p>13.10.3.1 If a law enforcement agency requests that a report be held, the request must be in writing on agency letterhead and signed by an administrative official of the law enforcement agency making said request. The request must contain sufficient information to facilitate identification of the report to be held.</p> <p>13.10.3.2 Laboratory Directors may approve report retention in undercover operations. Upon receipt of a written request to retain a report for an undercover operation, a written acknowledgment of the request shall be returned to the agency. The acknowledgement will contain the following stipulations:</p> <ul style="list-style-type: none"> • The requesting agency must provide a written request to the laboratory to release the retained report to the appropriate Commonwealth's Attorney when the undercover operation is completed. • The requesting agency must bear responsibility for the resolution of any problems, conflicts, etc., with the Commonwealth's Attorney over the Department's temporary retention of the report. • The Department's agreement to retain reports does not apply to retention of the evidence addressed in those reports. <p>13.11 Expungement of Records</p> <p>13.11.1 Federal and State statutes require expungement of criminal records under certain conditions. The Department of State Police directs expungements of adult records (§ 19.2-392.2). Juvenile and Domestic Relations Courts direct expungements of juvenile records (§ 16.1-306).</p> <p>13.11.2 The Department's Forensic Business Manager will establish procedures that assure that the directed expungements are carried out in a timely manner.</p> <p>13.11.3 Department personnel may not retain any documentation (such as, but not limited to, work sheets, notes, log books, etc.) containing the victim's and/or suspect's names without explicit direction from the Department Director.</p>	

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<p>13.12 Requests for Information</p> <p>13.12.1 General</p> <p>13.12.1.1 The Department receives numerous requests from defense attorneys and other individuals for information contained in its files. These requests range from Freedom of Information Act requests to Discovery Motions.</p> <p>13.12.1.2 All requests to obtain information from the Department must be in writing or documented in a Memorandum for Record. The requests must be specific as to the information desired.</p> <p>13.12.1.3 Only the Department Director, the Deputy Director, the Director of Technical Services, the Laboratory Directors, the Department Counsel and the Breath Alcohol Section Chief are authorized to consent to the release of information in the Department's files.</p> <p>13.12.1.4 A copy of each response to an information request will be placed in an appropriate case file or administrative file.</p> <p>13.12.2 Review of Current Law in the Code of Virginia covering the Release of Department Information</p> <p>13.12.2.1 Freedom of Information Act (FOIA):</p> <p>Requests for records, unless covered specifically in other sections of the Code of Virginia (COV), fall under the purview of the Freedom of Information Act (FOIA). Every attempt must be made to answer FOIA requests within five days of receipt. If it is not practically possible to provide the requested records within five days, an interim written response made within five working days stating the reasons a timely response is not possible will provide the Department with an additional seven working days in which to respond. The individual making the request does not have to cite the FOIA specifically as the basis for the request. Also, the individual is not necessarily eligible to obtain information. The following sections of the FOIA limit the Department's response:</p> <p>13.12.2.1.1 Under § 2.2-3704(A) of the Virginia FOIA, access to records is limited to "citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth." Therefore, the FOIA does not necessarily mandate a response to a request from outside of the Commonwealth.</p> <p>13.12.2.1.2 Pursuant to § 2.2-3706(F)(1), "memoranda, correspondence, case files or reports, witness statements, and evidence relating to a criminal investigation or prosecution" are excluded from the provisions of the FOIA.</p> <p>13.12.2.1.3 § 2.2-3703(C) provides that persons incarcerated in local, state or federal correctional facilities are not afforded rights under the provisions of the FOIA.</p> <p>13.12.2.2 Government Data Collection and Dissemination Practices Act</p> <p>§ 2.2-3802(10) of the Code of Virginia states that the provisions of the Act are not applicable to information systems maintained by the Department of Forensic Science.</p> <p>13.12.2.3 Requests in accordance with §§ 9.1-1104 and 18.2-268.7</p> <p>13.12.2.3.1 § 9.1-1104 of the Code states that the Department shall furnish, when requested by an accused person or their attorney, "the results of any investigation that has been conducted by it and that is related in any way to a crime for which the person is accused."</p>	

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<p>13.12.2.3.1.1 The written request should state the name of the accused and, if known, the FS Lab #, or provide sufficient information to allow for identification of the laboratory file such as the jurisdiction and date of offense or the investigating agency's case number. If there is some question whether the named person is an "accused" or whether the requesting attorney is the attorney for the accused person, the Commonwealth's Attorney of the appropriate jurisdiction will be consulted.</p> <p>13.12.2.3.1.2 When the request is legitimate, only a copy of the CoA will be furnished.</p> <p>13.12.2.3.2 § 18.2-268.7 provides that "[u]pon request of the person whose blood was analyzed, the test results shall be made available to him."</p> <p>13.12.2.3.2.1 The written request should include some verification as to the person's identity (e.g., a copy of the person's driver's license).</p> <p>13.12.2.4 Discovery Order.</p> <p>13.12.2.4.1 Discovery by the accused for felonies being prosecuted in Circuit Court is discussed in Rule 3A:11 of the Rules of the Supreme Court of Virginia.</p> <p>13.12.2.4.2 Rule 3A:11(b)(1)(ii) allows the accused to discover written reports (such as Certificates of Analysis) "that are known by the Commonwealth's attorney to be within the possession, custody or control of the Commonwealth."</p> <p>13.12.2.4.3 Rule 3A:11(b)(2) allows the accused to "inspect and copy or photograph designated books, papers, documents, tangible objects . . . or copies or portions thereof, that are within the possession, custody, or control of the Commonwealth"</p> <p>13.12.2.5 Subpoena <i>duces tecum</i></p> <p>13.12.2.5.1 The subpoena <i>duces tecum</i> is covered in Rule 3A:12 of the Rules of the Supreme Court of Virginia.</p> <p>13.12.2.5.2 § 19.2-187.2 outlines the procedure for the issuance of a subpoena <i>duces tecum</i> "for the production of writings or documents used to reach the conclusion contained in a certificate of analysis." It provides that if the production of such materials would place an undue burden on the Department, "the court may order that the subpoena <i>duces tecum</i> be satisfied by making the writings and documents available for inspection by the requesting party at the laboratory site where the analysis was performed or at the laboratory operated by the Department of Forensic Science which is closest to the court in which the case is pending."</p> <p>13.12.2.6 Requests for Search in accordance with § 19.2-310.5</p> <p>13.12.2.6.1 §19.2-310.5 provides that "[u]pon his request, a copy of the request for search shall be furnished to any person identified and charged with an offense as a result of a search of information in the [DNA] data bank."</p> <p>13.12.2.6.2 The written request should state the name of the accused person identified and charged as a result of the search and, if known, the FS Lab #, or provide sufficient information to allow for identification of the laboratory file such as the jurisdiction and date of offense or the investigating agency's case number</p>	

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<p>13.12.2.6.3 When a request is legitimate, only a copy of the Request for Laboratory Examination form reflecting submission of the item of evidence that resulted in the data bank hit will be provided.</p> <p>13.13 Court Ordered Examinations</p> <p>13.13.1 A court order mandating examinations will be forwarded to the appropriate Laboratory Director prior to any examinations being conducted.</p> <p>13.13.2 The Laboratory Director will notify and provide a copy of the court order to the Department Counsel and/or the Director of Technical Services.</p> <p>13.13.3 The Laboratory Director, after consultation with the Department Counsel and/or the Director of Technical Services, will provide the examiner proper guidelines as to the requirements of the court ordered examination.</p> <p>13.13.4 Prior to issuance of the CoA, a copy will be sent to the Department Counsel and/or Director of Technical Services for review to ensure the report is responsive to the court order.</p> <p>13.13.5 When reporting the results of post-conviction testing, the results are to “be furnished simultaneously to the court, the petitioner and his attorney of record and the attorney for the Commonwealth” (§ 19.2-327.1(E)).</p> <p>13.13.5.1 A “Certificate of Mailing” (Appendix C-13) is to be completed by the Laboratory Director or Department Counsel for each CoA issued as a result of post-conviction testing. The original Certificate of Mailing is to be maintained in the corresponding case file.</p> <p>13.13.5.2 The CoA (or copy thereof) shall be sent to the Clerk of the Court (original CoA), the petitioner, the petitioner’s attorney, and the attorney for the Commonwealth. A copy of the Certificate of Mailing must be included with the CoA (or copy). All post-conviction testing results are to be sent return receipt requested.</p> <p>13.13.6 Any CoA issued as a result of a court ordered examination will be accompanied by a cover letter referencing the court order.</p> <p>13.14 Records Security</p> <p>13.14.1 Policy</p> <p>The Department will ensure the security, confidentiality and integrity of records, both written and electronic.</p> <p>13.14.2 Case Records</p> <p>13.14.2.1 It is the policy of DFS to treat case files, including all information received from the submitting agency as well as the data developed and the results reached in the examination of criminal evidence, as confidential. Compliance with this policy is mandatory and is considered a condition of continued employment.</p> <p>13.14.2.2 Employees will not release the content of case files to any individual or entity that does not have the need to know. Essentially, those with the need to know are limited to appropriate members of the staff, the agency conducting the investigation or submitting the evidence, and the Commonwealth’s Attorney of the jurisdiction involved. Any deviation from this guideline must have the prior approval of one of the individuals specified in § 13.12.1.3.</p>	

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<p>13.14.3 Electronic Records</p> <p>13.14.3.1 Electronic records include but are not limited to FACE, CODIS, AFIS, DrugFire, NIBIN, the DNA data bank, and the Breath Alcohol Database.</p> <p>13.14.3.2 Electronic record systems may be compartmentalized, restricting access to various levels of both operation and information, by defining security levels and/or using other means, e.g., passwords or special procedures, that would restrict access to only authorized users. Therefore, the staff is not authorized to:</p> <p>13.14.3.2.1 Disclose one's personal access code or an access procedure to another individual.</p> <p>13.14.3.2.2 Possess or use the personal access code or procedure of another staff member except as authorized by a Laboratory Director or the Deputy Director.</p> <p>13.14.3.3 Passwords will be used to access the Department's data systems. Each system will force the user to change passwords every 30 days.</p> <p>13.14.3.4 The Department's System Administrator will establish an AOP containing procedures for the security and operation of the Department's computers and associated hardware and software.</p> <p>► End</p>	